

STATE OF SOUTH DAKOTA



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February 13, 2009

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John H. Davidson  
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Dear Counsel:

Enclosed please find a copy of the Order Granting Petition To

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February 13, 2009

Intervene and Notice of Prehearing Conference and Certificate of Service in the above matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlie McGuigan". The signature is written in a cursive, somewhat stylized font.

Charles D. McGuigan  
Chief Deputy Attorney General

CDM/lde  
Enc.

cc: Lee McCahren

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT**

IN THE MATTER OF THE PREVENTION OF )  
SIGNIFICANT DETERIORATION (PSD) AIR )  
QUALITY PERMIT APPLICATION OF )  
HYPERION ENERGY CENTER – HYPERION )  
REFINING LLC

Permit #28.0701-PSD  
ORDER GRANTING PETITION TO  
INTERVENE  
AND  
NOTICE OF PREHEARING  
CONFERENCE

1. On January 8, 2009 Citizens Opposed to Oil Pollution, Save Union County and The Sierra Club ("Citizens") submitted a Petition to Intervene in this matter. A Prehearing Conference was held at 10 a.m. on Wednesday February 11, 2009. All parties were represented by counsel and no party objected to the Petition to Intervene. Based upon the petition, supporting brief and the arguments presented at the Prehearing Conference, it is hereby ORDERED that the Citizens Petition to Intervene is GRANTED.

2. It is FURTHER ORDERED that the presentation of witness and evidence at the Contested Case Hearing shall be as follows:

Applicant Hyperion Energy Center – Hyperion Refining LLC

The Department of Environment and Natural Resources


Interveners Citizens Opposed to Oil Pollution, Save Union County and Sierra Club

3. NOTICE IS HEREBY GIVEN that a Prehearing Conference will be held starting at 3 p.m. Central Standard Time on Thursday February 19<sup>th</sup>, 2009 at the Mathew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota. Any party wishing to participate by telephone may do so and a conference line will be available.

4. NOTICE IS FURTHER GIVEN that a Prehearing Conference, Motions Hearing, Public Comment Hearing and Site Tour will occur on Wednesday April 15<sup>th</sup> and Thursday April 16<sup>th</sup>, 2009 in Elk Point South Dakota. The Prehearing Conference, Motions Hearing and Public Comment Hearing will be held at the Elk Point High School in Elk Point, South Dakota. Below is the Board of Minerals and Environment's Proposed Draft Agenda for those dates. THIS PROPOSED DRAFT AGENDA IS SUBJECT TO CHANGE.

- 10:00 A.M. Start time on Wednesday, April 15, 2009
- Roll call
- Minutes
- Mining issues
- Oil & Gas Contested Case
- Hyperion Motions Hearing and Prehearing Conference
- Lunch break
- 1:15PM Site Tour - BME, staff, representatives of the parties. Public can trail along but not participate
- 3:00PM Begin the public comment portion of the hearing
- 5:00PM - adjourn for dinner
- 7:00PM - reconvene for public comment
- 9:00PM - adjourn
- 9:00A.M. Thursday, April 16. Reconvene for public comment. Continue as needed but no later than 5:00PM

Dated this 11<sup>th</sup> day of February 2009.

By:   
Lee M. McCahren  
Hearing Chair  
Board of Minerals and Environment

BEFORE THE  
BOARD OF MINERALS AND ENVIRONMENT  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE	)	Permit #28.0701-PSD
PREVENTION OF SIGNIFICANT	)	
DETERIORATION (PSD) AIR	)	CERTIFICATE OF SERVICE
QUALITY PERMIT APPLICATION	)	
OF HYPERION ENERGY CENTER -	)	
HYPERION REFINING LLC	)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the ORDER  
GRANTING PETITION TO INTERVENE AND NOTICE OF PREHEARING  
CONFERENCE in the above entitled matter was served by first class U.S. Postal Service

Mail, postage pre-paid, upon:

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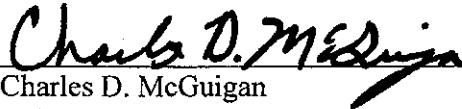
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*Counsel for Save Union County, Citizens Opposed to Oil Pollution and Sierra Club*

Dated this 13~~th~~ day of February, 2009



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